

LAW OFFICES OF:
EWING & ASSOCIATES

MIKE EWING
ISABELLE BROWN
ANDRE M. ROSS

POST OFFICE BOX 400
995 SOUTH MAIN STREET
LAKEPORT, CALIFORNIA 95453-0400

TELEPHONE (707) 263-6400
FACSIMILE (707) 263-7047
www.lakeportlawyers.com

January 20, 2017

***Sent Via E-Mail and Facsimile Transmission To: (707) 263-2225
With Originals to Follow By Hand Delivery***

Community Development Department
Attn: Code Enforcement Division
c/o Mr. Michael Penhall and Ms. Jeri Driver
255 N. Forbes Street
Lakeport, CA 95453

Re: County of Lake NON/OTA 16-0187
7120 and 7180 Bartlett Springs Road
APN: 027-134-02 & 027-135-01, 03 and 04

Dear Mr. Penhall:
Dear Ms. Driver:

Please find attached to this letter sixteen (16) additional photographic images depicting improvements which have all been removed from the above identified real property by Appellant Ken Stiritz subsequent to the County of Lake's issuance of NON/OTA 16-0187.

This letter supplements my last two letter transmitted to Code Enforcement regarding the Appellant's actions undertaken in substantial compliance with NON/OTA 16-0187. Please confirm that all three of my recent letters continuing photographs have been included with the materials already delivered to the members of the Board of Supervisors. Thank you.

Sincerely,



Andre M. Ross for
Ewing & Associates

AR:ar

cc: Client, Property Owner

Exhibit H
32 of 43



COUNTY OF LAKE
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Division
Courthouse - 285 N. Forbes Street
Lakeport, California 95453
Telephone 707/263-2221 FAX 707/263-2225

February 3, 2017

J. Ken Stiritz
PO Box 114
Upper Lake, CA 95485

Re: Major Use Permit Application (UP 15-03) and Initial Study (IS 15-05); APN: 027-134-02 & 027-135-01, 03 & 04.

Dear Mr. Stiritz:

On February 1, 2017, the Community Development Department was contacted by a wedding party who is scheduled to have their wedding in April of 2017 at Precious Forest Mountain Retreat. According to the wedding party, they were informed that the wedding is scheduled and will be occurring in April of 2017 as planned.

According to a letter dated November 8, 2016, the Community Development Department indicated that your major use permit application has remained incomplete for an extended period of time, which means the department is unable to complete the CEQA Analysis. All items indicated in that letter should have been submitted to the Community Development Department within 45 days or by December 30, 2016. However, according to the letter you were allowed to submit a one-time extension of time request to the Community Development Department.

On December 20, 2016 the Community Development Department received an extension of time request letter from Mr. Andre Ross of Ewing & Associates requesting a forty-five (45) day extension of time. The Community Development Department considered your request after reviewing your use permit file, associated files and the extension request packet. In response to your extension request, the Community Development Department sent you a letter dated January 12, 2017 granting you a thirty (30) day extension of time and informing you that all items indicated in the November 8, 2016 letter must be submitted as an *entire package only no later than February 13, 2017*. If all the items are not received as an entire package by February 13, 2017 your application will be scheduled before the Planning Commission for Denial without Prejudice.

The January 12, 2017 letter also informed you that the Community Development Department will not grant and/or consider any more extension of time requests and you must cease all operations and you are not permitted in any way to operate or host any type of events until the necessary permits have been obtained from the proper federal, state and local agencies. There shall be no booking of events or advertising of any kind (social media, radio, newspapers, magazines, etc.). The only structure that may be used is the permitted Single-Family Residence, either for yourself/immediate family and/or your caretaker. The general public is not allowed to be onsite to attend events, and all the other structures are not permitted and shall not be used and must be removed from the property, no exceptions.

Please keep in mind, the major use permit and environmental review process takes several months to complete and part of the review process is to determine if you have meet all the requirements of the Lake County General Plan, Lake County Zoning Ordinance and the California Building Code of 2016.

Pursuant to Article 51 (Major Use Permit), Section 51.4 of the Lake County Zoning Ordinance there are six (6) Findings Required for Approval and all six findings must be met in order to consider approval of your major use permit. One of the findings states that *"no violation of Chapters 5, 17, 21, 23 or 26 of the Lake County Code currently exists on the property, unless the purpose of the permit is to correct the violation, or the permit relates to a portion of the property which is sufficiently separate and apart from the portion of the property in violation so as not to be affected by the violation from a public health, safety or general welfare basis."*

If it is determined that you are in violation of the County Code, the Community Development Department will not be able to make the required findings.

If you have any questions or concerns, feel free to contact me at Robert.Massarelli@lakecountyca.gov or (707) 263-2221. Thank you.

Sincerely,



Robert Massarelli,
Community Development Director

Cc: Anita Grant; Lake County Counsel; 255 N. Forbes Street, Lakeport, CA 95453.
Andre Ross (Ewing & Associates); 995 South Main Street, Lakeport, CA 95453
Walter Niesen & Wendy Fetzer; 4530 Feliz Creek Road, Hopland, CA 95449

NOTE: This letter has no relation to the NONOTA, the NONOTA is a separate action.

Andre M. Ross

From: Andre M. Ross <ross@lakeportlawyers.com>
Sent: Tuesday, February 07, 2017 20:24
To: 'Shanda Harry'
Cc: Anita.Grant@lakecountyca.gov
Subject: FW: NON/OTA 16-187 and MUP 15.03
Attachments: Scan.LTR to County of Lake.20170117..pdf

Fax (707) 263-0702 / 263-2825

Dear Counsel:

With respect to the attached letter, I have received- to date- the two (2) e-mails reflected below sent by Ms. Harry on January 23rd and the additional e-mail reflected below sent by Ms. Black on January 25th.

I have corresponded at length with CDD Director Massarelli regarding these two matters with limited success. I have also cc'd Ms. Harry with copies of all such correspondence.

I would like to review the entirety of the County's response to my January 17th request tomorrow, February 8th at approximately 10:00 a.m. Please have CDD staff make arrangements to have all files, documents and things responsive to my January 17th request available for my review and photocopying at that time. I am hopeful that my review will be extremely quick and most efficient.

Mr. Massarelli has informed me by e-mail that he sees no reason to make a senior staff member available at the time of my review of the County's responsive items.

Nevertheless, I do not wish to interfere with Mr. Penhall's ongoing code enforcement work, nor with Mr. Roberts' ongoing planning work. I have no questions to pose to them at this time.

Mr. Massarelli has chosen NOT to respond to my inquiry as to whether Ms. Black is authorized to answer any questions regarding CDD's production of the files.

My present concerns are with the lawfulness and ultimate fairness of CDD's handling of these two matters.

As you know, actions or tactics undertaken for an improper purpose, or to cause unnecessary delay or to needlessly increase the cost of litigation are improper and ultimately counter-productive.

I have not experienced such actions or tactics in my past dealings with County Counsel.

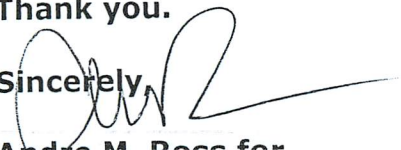
I am however, respectfully requesting CDD's reasonable cooperation in working to dispel whatever concerns I might have pertaining to CDD's handling of these matters.

I expect CDD to voluntarily uphold its obligations under California law to provide appropriate access.

Your cooperation and assistance is hereby requested in order to insure that such access is provided.

Thank you.

Sincerely,


**Andre M. Ross for
Ewing & Associates**

Transmission Date: January 25, 2017 at 8:55

Good Morning Mr. Ross,

I am emailing you regarding the above noted subject in which you requested to view the files. I am the Office Manager with Lake County Community Development and was asked to respond to your request.

Are you requesting to view the files at our counter or are you requesting copies of both files (Planning and Code Enforcement)?

Thank You,

Michelle Black
CDD, County of Lake
Office Manager

From: Shanda Harry [mailto:Shanda.Harry@lakecountycal.gov]
Sent: Monday, January 23, 2017 16:11
To: ross@lakeportlawyers.com
Subject: RE: NON/OTA 16-187

Mr. Ross,

Pursuant to Gov. Code, § 6253, subd. (c). a Public Records Act Request must be responded to within 10 calendar days from date of receipt of the request.

Community development will respond within the required time limits to your Public Records Act request.

Thank you,

Shanda

Shanda Harry
Deputy County Counsel
County of Lake

Mr. Ross,

I have reviewed your letter of January 17, 2017 and your email from today and provide this response.

As you are no doubt aware the hearing at the Board of Supervisors Meeting tomorrow is regarding County of Lake NON/OTA 16-0187. The letter you attached from Mark Roberts to J. Ken Stiritz (dated January 12, 2017) is regarding the incomplete file for Major Use Permit Application (UP-15-03). The use permit is not part of the appeal hearing on the NON/OTA and will therefore not be heard on Tuesday.

As to your question regarding why Jim Steele and Rob Brown are CCed on the January 12, 2017 letter - it is because your client (Ken Stiritz) has contacted Jim Steele and Rob Brown regarding the status of his Use Permit and asked for the assistance of Jim Steele and Rob Brown in this matter. As a result, Jim Steele and Rob Brown were CCed for informational purposes only on the issue of the Use Permit.

Your letter of January 17, 2017 includes a Public Records Act request. You will review a response to your Public Records Act request from Community Development shortly.

Thank you,

Shanda

Shanda Harry
Deputy County Counsel
County of Lake

Andre M. Ross

From: Andre M. Ross <ross@lakeportlawyers.com>
Sent: Wednesday, February 15, 2017 17:29
To: 'Robert Massarelli'; 'Michael Penhall'
Cc: thepreciousforest@yahoo.com; 'Wendy Fetzer'
Subject: County of Lake NON/OTA 16-0187and BOS' hearing set for February 28, 2017
Attachments: Penhall.Scanned Presentation to A Ross 2-3-17.pdf; Scan.CCP 1822.50 to 1822.60.20170215..pdf

SENT BY E-MAIL AND FACSIMILE TRANSMISSION TO: (707) 263-2225 and (707) 263-0722

Cc: Ken Stiritz and Property Owners Wendy Fetzer and Walter Niesen

Dear Mr. Massarelli:
Dear Mr. Penhall:

This communication pertains to the above identified County of Lake NON/OTA 16-0187 matter only. This enforcement matter is currently set for a public hearing before the Lake County Board of Supervisors on Tuesday, February 28, 2017.

I sincerely appreciated Mr. Penhall's timely production of the attached nineteen (19) page .pdf comprised of 38 photographs and specified excerpts of the County of Lake's Zoning Ordinance.

For ease of reference, I have also attached a scan of Code of Civil Procedure Sections 1822.50 through 1822.60 which reflect the State of California's legal guidelines for the proper and lawful administration of inspection warrants.

On the morning of January 24, 2017, while in the Board of Supervisors' Chambers, I verbally asked Director Massarelli whether the Community Development Department ("CDD") would consider dismissing the NON/OTA 16-0187 matter without prejudice to any future Code Enforcement actions.

Mr. Massarelli stated to me that CDD would not consider dismissing the NON/OTA 16-0187 matter at that time.

I am hereby requesting, for a second time, that CDD now dismiss the above identified NON/OTA 16-0187 code enforcement action without prejudice to any future Code Enforcement activities.

This second request is being made in the in the interests of promoting justice, fairness, economic efficiency, practical efficient and the lawful exercise of the County's legitimate code enforcement authority.

Requiring the property owners and their agent to participate further in the pending NON/OTA proceeding has imposed, and will continue to impose, a substantial economic burden on the appellants.

Requiring this NON/OTA matter to go to a public hearing will also very likely result in additional staff time being consumed and the Board's finite resources being effectively squandered.

Please advise by no later than 5:00 p.m. on Friday, February 17, 2017 whether CDD would be willing to agree now to voluntarily dismiss the pending NON/OTA matter without prejudice to any future actions by Code Enforcement.

I thank you in advance for CDD's anticipated consideration.

Sincerely,



Andre M. Ross

Andre M. Ross for
EWING & ASSOCIATES
P.O. Box 400
995 South Main Street
Lakeport, California 95453
Tel: (707) 263-6400
Fax: (707) 263-7047
E-M: ross@lakeportlawyers.com
www.lakeportlawyers.com
<http://www.lakeportlawyers.com/andre-ross.asp>

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Nuisance Abatement Hearing

Code Enforcement case #16-0187

**Wendy Fetzer and Walter Niesen
aka; The Precious Forest**

7180 Bartlett Springs Road

Lucerne, CA

January 24, 2017

EWING & ASSOCIATES

995 South Main
P.O. Box 400
Lakeport, CA 95453
(707) 263-6400
fax (707) 263-7047

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FAX

Attn: Director R. Massarelli / M. Penhall
CEO

TO: (707) 283-2225 / (707) 263-0702

FAX #: Code Enforcement

FROM: Andrew Ross

DATE: 2/15/17

SUBJECT: NON/OTA 16-0187

PAGES: 22 (including cover sheet)

MESSAGE:

Exhibit H
4/9/43

TRANSMISSION VERIFICATION REPORT

TIME : 02/15/2017 18:04
NAME : EWING AND ASSOCIATES
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TEL : 7072637047
SER.# : BR0G6J496943

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FAX

Attn: Director R. Massarelli / M. Penhall
CEO

TO: (707) 283-2225 / (707) 263-0722

FAX #:

Code Enforcement

FROM:

Andrew Mass

DATE:

2/15/17

Exhibit H
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TRANSMISSION VERIFICATION REPORT

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FAX

Attn: Director R. Massarelli / M. Penhall
TO: (707) 283-2225 / (707) 263-0702 CEO

FAX #: Code Enforcement

FROM: Andrew Ross

DATE: 2/15/17

Exhibit H
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